

Paul G. Shearer
1532 Meadows Drive
Lake Oswego, OR 97034
(503) 697-4378

United States DISTRICT COURT
DISTRICT OF ALASKA

RECEIVED
OCT 30 2007
CLERK, U.S. DISTRICT COURT
ANCHORAGE, A.K.

PAUL G. SHEARER,

Plaintiff,

V.

United States OF AMERICA,
DIRK KEMPTHORNE, Secretary of the Interior,
the DEPARTMENT of the INTERIOR,
the NATIONAL PARK SERVICE.

Defendants.

Case No. A03-0263 CV (JKS)
(CONSOLIDATED)

PLAINTIFF'S MOTION FOR ENLARGMENT OF TIME

Plaintiff Paul G. Shearer moves the Court for an order granting him an enlargement of time in which to file a response to United States' Motion to Dismiss and to Strike Second Amended Complaint (Docket No. 123). Shearer requests an enlargement until November 26, 2007, for the reasons stated below.

In support of the above motion, plaintiff shows:

1. In Shearer's first Motion for Enlargement of Time (Docket No. 126) to file a response to United States' Motion to Dismiss and to Strike Second Amended Complaint (Docket No. 123), Shearer outlined the status of progress toward settlement that had been made up to that time. Specifically that on June 22, 2007, Mr. Dunsmore communicated to Shearer that the

Government would agree in principal to Shearer's proposed terms of settlement, and that subsequent to June 22 the parties had continued to exchange drafts and discuss by phone the terms of a final Settlement Agreement. (See Docket No. 126, paragraphs 1-5)

2. In Shearer's first Motion for Enlargement of Time, Shearer also gave a proposed timeline that he would attempt to follow in continuing to work with the Government to agree on the wording of the Settlement Agreement and if needed in preparing a response to United States' Motion to Dismiss and to Strike Second Amended Complaint. (See Docket 126, paragraphs 7-10). Shearer had planned to continue work toward Settlement prior to traveling to Alaska on September 24-30 to visit the subject property to work on appraisals before winter restricted travel to Kantishna, and if possible to meet with the Government in Anchorage to continue settlement negotiations.

3. The following paragraphs provide an updated status since September 12, 2007, the date the court granted the first Enlargement, and provide reasons for Shearer's request for a second Enlargement until November 26, 2007.

4. Shearer and the Government have continued to exchange several updated drafts of the Settlement Agreement and have had several extended phone calls to continue negotiation of a final settlement. Although both parties had hoped a settlement would have been completed by now, Shearer believes the parties have been able to make progress toward settlement and that settlement is achievable.

5. However delays from Shearer's original timeline for settlement negotiations have occurred mainly due to Shearer's increased work schedule. Shearer's work schedule has increased to working overtime and weekends during September and October to deliver a software

product by a November 17, 2007 deadline. Thus Shearer's time has been very limited and he has not been able to complete the original proposed timetable goals for settlement. Also from Shearer's perspective the Government has extended time needed for settlement by requesting additional terms that Shearer has had to research and consider.

6. Shearer's work schedule increase also caused a delay in Shearer's trip to Alaska with was postponed one week and Shearer did not return until October 5. Shearer was able to discuss settlement with Anchorage attorneys during the trip to get settlement legal advice. However Shearer was not able to meet with Mr. Dunsmore due to schedule conflicts and Shearer's delay in returning from Denali after visits to the subject property. Shearer was able to contact Dunsmore by email and phone October 2 and 3 and gather some information to help in updating the draft Settlement Agreement.

7. Shearer's late return from Alaska on October 5, and Shearer's continued need to work overtime since October 5, have not allowed him to finish resolving the final settlement issues to reach a final Settlement Agreement, or to spend adequate time to complete the legal research and prepare and complete a response to the United States' Motion to Dismiss and to Strike Second Amended Complaint (Docket Entry No. 123) which again is significant in length and complexity and involves 51 pages of Motion and 67 pages of exhibits.

8. Shearer's extended work hours will continue until at least November 17, 2007, a deadline for delivering a software product.

9. From October 29 to November 19 Shearer proposes to spend the limited time he will have available focused on resolving settlement issues with the goal of reaching a Settlement Agreement.

10. From November 19 to November 26, if settlement has not been finalized before that time, Shearer will use his limited remaining time to attempt the legal research necessary to prepare and complete a response to the United States' Motion to Dismiss and to Strike Second Amended Complaint (Docket No. 123) which is significant in length and complexity and involves 51 pages of Motion and 67 pages of exhibits.

11. On November 26, if settlement still had not been reached by that date, Shearer would plan to file a response to the United States' Motion to Dismiss and to Strike Second Amended Complaint (Docket No. 123).

12. Shearer would not oppose any similar request by the Government for a similar additional extension of time to file an Answer to Shearer's Second Amended Complaint (Docket No. 123).

For the reasons stated above, plaintiff Shearer needs additional time to prepare and file a response to United States' Motion to Dismiss and to Strike Second Amended Complaint (Docket No. 123).

For the reasons stated above, plaintiff Shearer requests an enlargement of time to file a response to United States' Motion to Dismiss and to Strike Second Amended Complaint (Docket No. 123) until November 26, 2007.

Dated October 28, 2007

A handwritten signature in black ink, appearing to read "Paul G. Shearer", written over a horizontal line.

Plaintiff
Paul G. Shearer
1532 Meadows Drive
Lake Oswego, OR 97034

CERTIFICATE OF SERVICE

I certify that a copy of the above documents was mailed, by first class mail addressed to the persons at the addresses stated below on October 28, 2007.



Paul G. Shearer

Addressee(s):

US District Court
Clerk of Court
222 W. 7th Ave #4
Anchorage, AK 99513-7564
907-677-6100

Paul Harrison (his successor) (copy)
Trial Attorney
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 561 – Ben Franklin Station
Washington, D.C. 20044
Email: -@usdoj.gov
202-305-0299
202-514-8865 FAX

Dean K. Dunsmore (copy)
U.S. Department of Justice
Environment & Natural Resources Division
801 B Street, Suite 504
Anchorage, AK 99501-3657
Email: dean.dunsmore@usdoj.gov
907-271-5452
907-271-5827 FAX

AT RATE ENVELOPE

EXTREMELY LIGHT

Please Print To Address

DOMESTIC USE ONLY

CALL 1-800-222-1811 FOR PICKUP OR TRACKING OF ALL YOUR PACKAGES



EXPRESS MAIL

UNITED STATES POSTAL SERVICE®

U.S. POSTAGE
PAID, OR
PORT OF
OCT 28 07
AMOUNT
\$16.25
00029882-35



0000

**JIRED
E ONLY**

HO



PRESS HARD, YOU ARE MAKING 3 COPIES.

ORIGIN (POSTAL SERVICE USE ONLY)		Day of Delivery		Postage	
PO ZIP Code		<input type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd	Day	\$	
Date Accepted		Scheduled Date of Delivery		Return Receipt Fee	
Mo. Day Year		Month	Day	\$	
Time Accepted		Scheduled Time of Delivery		Insurance Fee	
Mo. Day Year		Mo. Day Year	Time	\$	
Flat Rate <input type="checkbox"/> or Weight		<input type="checkbox"/> Non Military <input type="checkbox"/> 2nd Day Int'l Alpha Country Code	2nd Day	Total Postage & Fees	
lbs. ozs.				Acceptance Emp. Initials	

FROM: (PLEASE PRINT) PHONE ()

FOR PICKUP OR TRACKING

Visit www.usps.com

Call 1-800-222-1811

The e
the Ex



EXPRESS MAIL

UNITED STATES POSTAL SERVICE®

Post Office To Addressee

DELIVERY (POSTAL USE ONLY)

Delivery Attempt		Time		Employee Signature	
No. Day		<input type="checkbox"/> AM <input type="checkbox"/> PM			
Mo. Day		<input type="checkbox"/> AM <input type="checkbox"/> PM			
Delivery Date		<input type="checkbox"/> AM <input type="checkbox"/> PM			
No. Day		<input type="checkbox"/> AM <input type="checkbox"/> PM			

CUSTOMER USE ONLY

☐ **WARRANTY OF SIGNATURE (Domestic Mail Only)**
I warrant that the signature on this mail piece is that of the addressee. If the signature is not that of the addressee, I warrant that the signature is that of an authorized agent of the addressee. I warrant that the signature is that of an authorized agent of the addressee. I warrant that the signature is that of an authorized agent of the addressee.

☐ **NO DELIVERY** (Please print reason for no delivery)

☐ **NO DELIVERY** (Please print reason for no delivery)

TO: (PLEASE PRINT) PHONE ()

ZIP + 4 (U.S. ADDRESSES ONLY, DO NOT USE FOR FOREIGN POSTAL CODES.)

FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.